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**U.S. OFFICE OF PERSONNEL MANAGEMENT  
OFFICE OF THE INSPECTOR GENERAL  
OFFICE OF AUDITS**

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# Final Audit Report

**AUDIT OF THE U.S. OFFICE OF PERSONNEL  
MANAGEMENT'S FEDERAL INVESTIGATIVE  
SERVICES' ADJUDICATIONS GROUP**

Report Number 4A-IS-00-15-054  
June 17, 2016

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# EXECUTIVE SUMMARY

## *Audit of the U.S. Office of Personnel Management's Federal Investigative Services' Adjudications Group*

Report No. 4A IS-00-15-054

June 17, 2016

### **Why Did We Conduct The Audit?**

The objectives of our audit were to determine whether the Federal Investigative Services' (FIS) Adjudications Group:

- is properly adjudicating cases according to their procedures;
- has adequate oversight controls over their random review process;
- has controls in place to ensure that their personnel are trained to perform their duties; and
- is in compliance with the Intelligence Reform and Terrorism Prevention Act of 2004 timeliness standards.

### **What Did We Audit?**

The Office of the Inspector General has completed a performance audit of the U.S. Office of Personnel Management's (OPM) Federal Investigative Services' Adjudications Group. Our audit fieldwork was conducted from January 28 through March 29, 2016, at FIS's office located in Western Pennsylvania, and OPM's headquarters, located in Washington, D.C.



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**Michael R. Esser**  
*Assistant Inspector General  
for Audits*

### **What Did We Find?**

We determined that the FIS Adjudications Group is following its procedures for adjudicating cases, has adequate oversight controls over their random review process, has controls in place to train their personnel, and is in compliance with the Intelligence Reform and Terrorism Prevention Act of 2004 timeliness standards. Therefore, we did not issue a draft report and are not making any recommendations.

# ABBREVIATIONS

<b>BAAO</b>	<b>Background Investigations/Access National Agency Check and Inquiries Adjudications and Agency Oversight</b>
<b>CAB</b>	<b>Contractor Adjudications Branch</b>
<b>FIS</b>	<b>Federal Investigative Services</b>
<b>IRTPA</b>	<b>Intelligence Reform and Terrorism Prevention Act</b>
<b>NACI</b>	<b>National Agency Check with Inquiries</b>
<b>NARA</b>	<b>National Agency Check with Inquiries Agency Referral Adjudications</b>
<b>OIG</b>	<b>Office of the Inspector General</b>
<b>OPM</b>	<b>U.S. Office of Personnel Management</b>

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# I. BACKGROUND

This final report details the findings, conclusions, and recommendations resulting from our performance audit of the U.S. Office of Personnel Management's (OPM) Federal Investigative Services' (FIS) Adjudications Group. The audit was performed by OPM's Office of the Inspector General, as authorized by the Inspector General Act of 1978, as amended.

OPM's FIS is responsible for conducting background investigations on Federal applicants, employees, military members, and contractor personnel for customer agencies on a reimbursable basis. FIS determines the eligibility of these individuals to hold security clearances, or to be employed in positions with national security sensitivity, eligibility for accession or retention in the Armed Forces, eligibility for an identity credential, or suitability or fitness for employment for or on behalf of the Government.

FIS conducts approximately 95 percent of all personnel background investigations for the Federal government. Federal agencies use the background reports of investigations, conducted by FIS, to determine individuals' suitability or fitness for Federal civilian, military, and contract employment, as well as their eligibility for access to national security classified information and access to Federal facilities and information systems. In addition, FIS provides investigative systems training and conducts oversight evaluations of other agencies to review compliance with Federal suitability and security regulations<sup>1</sup>.

## **FIS Adjudications Group**

The FIS Adjudications Group (Adjudications) is located in Western Pennsylvania. Adjudications is responsible for:

- Protecting the interests of the Federal government by taking suitability actions<sup>2</sup> when serious issues<sup>3</sup> are raised about the character and conduct of competitive service Federal applicants and employees, as a result of a background investigation or agency referral.
- Overseeing all FIS suitability decisions and activities including Applicant Suitability Determinations and Qualifications Fraud Investigations.
- Assisting the Office of General Counsel in processing appeals involving unfavorable OPM suitability decisions to the Merit Systems Protection Board.
- Providing materials and instructors for OPM suitability training courses.
- Ensuring FIS contract employees are properly investigated and meet fitness and national security requirements to perform work for or on behalf of FIS.

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<sup>1</sup> Regulations – to include 5 CFR part 731, Suitability, 5 CFR part 732, National Security Positions and 5 CFR part 1400, Designation of National Security Positions, Executive Order 10450-Security Requirements for Government Employment, April 27, 1953.

<sup>2</sup> Suitability Actions are outcomes which may include cancellation of eligibility; removal/ cancellation of reinstatement eligibility and debarment described in 5 CFR 731.204 and 205 and may be taken only by OPM or an agency with delegated authority.

<sup>3</sup> Serious suitability issues are issues dealing with misconduct or negligence in employment; criminal or dishonest conduct; material intentional falsification; refusal to furnish testimony; alcohol abuse or illegal use of drugs without evidence of substantial rehabilitation; knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force; or statutory or regulatory bars preventing lawful employment.

For the suitability actions it takes, Adjudications operates in accordance with Title 5, Code of Federal Regulations, Chapter 1 Subchapter B, Part 731. In order for OPM to take action on cases, it must establish jurisdiction; meaning that OPM has regulatory authority to take these actions including canceling eligibilities, directing removal, and imposing a period of debarment<sup>4</sup> from Federal employment.

Adjudications also evaluates the fitness and clearance eligibility of contractor employees working for FIS, and determines if they can be trusted to uphold the public trust and protect national security. For actions assessing character and conduct issues, Adjudications uses fitness standards equivalent to the criteria in Part 731. To assess issues affecting eligibility for access to classified information or to perform work in a sensitive national security position, the Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, established by the Assistant to the President for National Security Affairs, from Executive Order 12968, are used.

Adjudications consists of three branches:

1. National Agency Check and Inquiries and Agency Referral Adjudications (NARA), which is responsible for:
  - reviewing and adjudicating National Agency Check with Inquiries (NACI) Tier 1<sup>5</sup> investigations and agency applicant suitability and debarment referrals;
  - supporting OPM's Office of General Counsel when OPM suitability actions are appealed;
  - serving as subject matter experts for developing or updating training materials and instructing suitability courses;
  - handling certain Federal agency objections based on character and conduct issues, which includes Administrative Law Judges<sup>6</sup> and Veteran Passover requests involving individuals with a 30 percent or greater compensable disability<sup>7</sup>; and
  - conducting internal random reviews on cases processed to determine if the appropriate jurisdiction and suitability determination was made.
2. Background Investigations /Access National Agency Check and Inquiries Adjudications and Agency Oversight (BAAO), which is responsible for:
  - reviewing and adjudicating background investigations at levels more comprehensive than NACI/Tier 1 investigations;
  - coordinating with Federal agencies that submit requests for background investigations when the subject is currently or was previously (in the last three years) debarred by OPM for suitability reasons;

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<sup>4</sup> OPM, in its discretion, may, for a period of not more than 3 years from the date of the unfavorable suitability determination, deny that person examination for, and appointment to, covered positions.

<sup>5</sup> NACIs, now known as Tier 1 investigations, are investigations for low risk and non-sensitive positions.

<sup>6</sup> Objections are an agency's request to remove a non-preference eligible from a certificate of eligibles for reasons of qualification, medical, and/or character or conduct concerns. When the objection is to remove an Administrative Law Judge from a certificate of eligibles and the basis is character or conduct, these are processed by the FIS Adjudications, National Agency Check and Inquiries and Agency Referral Adjudications branch.

<sup>7</sup> A passover is an agency's request to pass over a preference eligible in order to select a non-preference eligible. .

- providing support for Federal agency oversight through a limited review of Federal Agency adjudications on OPM background investigations cases closed with major issues but favorably adjudicated by the agency, to determine if adjudication was appropriate; issuing notifications to Federal agencies when it appears their favorable adjudicative action may not have been warranted; and
- conducting internal random reviews on cases processed to determine if the appropriate jurisdiction and suitability determination was made.

3. Contractor Adjudications Branch (CAB), which is responsible for:

- evaluating the fitness and clearance eligibility of individuals working (or seeking to work) in a contract capacity for FIS; granting access up to Top Secret as needed and providing continuous oversight;
- designating the sensitivity and public trust levels of all FIS contractors and vendors;
- exercising reciprocity, when appropriate, to grant access to OPM information systems and facilities for new applicants or scheduling the appropriate level of investigation; scheduling periodic update investigations;
- assisting OPM's Security Office by adjudicating investigations conducted on staff within that office for suitability and clearance eligibility; and
- conducting internal random reviews on cases processed to determine if the appropriate fitness and national security determination was made.

### **Adjudications Training**

The Executive Order 13467, titled *Reforming Processes Relating to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Information*, named the OPM Director as the Suitability Executive Agent that is responsible for developing and implementing uniform and consistent policies and procedures to ensure the effective, efficient and timely completion of investigations and adjudications relating to determinations of suitability and eligibility for logical and physical access.

In 2012, the OPM Director issued a memorandum titled *National Suitability Adjudicator Training Program*. This memorandum required that all agencies provide training to all Federal government Suitability Adjudicators in accordance with the National Training Standards it established. FIS developed a training program that is compliant with the National Training Standards and offers this training opportunity government-wide. Personnel from FIS Adjudications support this program by providing instruction and subject matter input for the training material.

In addition, FIS Adjudications ensures staff compliance with the National Training Standards for Suitability Adjudicators, as well as the National Security Adjudicator Training Program that was issued in 2012 by the Office of the Director of National Intelligence. FIS Adjudications also provides on the job training for their Security Assistants and Adjudicators.

## **Intelligence Reform and Terrorism Prevention Act of 2004**

The Intelligence Reform and Terrorism Prevention Act (IRTPA) was passed by Congress to help reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes. The law states that each adjudicative agency should make a determination on at least 90 percent of all applications for a personnel security clearance within 60 days after the date of receipt of the completed application for such a security clearance by an authorized investigative agency. Such 60-day average period shall include a period of not longer than 20 days to complete the adjudicative phase of the clearance review. These timeliness standards are tracked and reported as required by IRTPA. Work completed by the Contractor Adjudications Branch is required to be completed within these timeliness standards.



## II. OBJECTIVES, SCOPE, AND METHODOLOGY

### Objectives

The audit objectives were to determine whether:

1. FIS is properly adjudicating cases according to their procedures.
2. Adjudications has adequate oversight controls over their random review process.
3. Adjudications has controls in place to ensure that their personnel are trained to perform their duties.
4. FIS is in compliance with the Intelligence Reform and Terrorism Prevention Act of 2004 timeliness standards.

### Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards as established by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

The scope of our audit covered closed cases that were reviewed for suitability determinations from January 1 through August 31, 2015. Specifically,

Audit Area	Total Universe	Sample Size	Scope
Case Review for Suitability Determination	1,640 Cases	77 Cases	January 1 through August 31, 2015
Oversight Review	302 Reviews	55 Reviews	April 1 through August 31, 2015
Training	36 FIS Adjudication Personnel Security Specialists (Adjudicators)	15 Adjudicators	January 1 through June 30, 2015

We performed our audit fieldwork from January 28 through March 29, 2016, at FIS's office located in Western Pennsylvania, and OPM's headquarters, located in Washington, D.C.

To accomplish our audit objectives noted above we:

- Interviewed FIS Adjudications personnel;
- Sampled closed cases and performed tests of Adjudications policies for making suitability decisions to ensure they are adhering to their process and to determine if the process is efficient;
- Sampled and reviewed training records;
- Sampled and reviewed random reviews conducted on suitability determinations; and

- Sampled and reviewed random reviews conducted for favorable adjudications by other Federal agencies on OPM-conducted background investigations.

In planning our work and gaining an understanding of the adjudications process, we considered, but did not rely on, FIS's internal control structure to the extent necessary to develop our audit procedures. These procedures were analytical and substantive in nature. We gained an understanding of management procedures and controls to the extent necessary to develop our audit objectives. The purpose of our audit was not to provide an opinion on internal controls, but merely to evaluate controls over the processes included in the scope of our audit.

Our audit included such tests and analysis of FIS's closed cases reviewed for suitability determinations, including timeliness standards to conduct these reviews; training provided by FIS; oversight reviews conducted on work performed by FIS Adjudications employees and other Federal agencies; and other procedures as we considered necessary under the circumstances.

In conducting our audit, we relied to varying degrees on computer-generated data. Due to the nature of the audit, we did not verify the reliability of the data generated by the systems involved. However, nothing came to our attention during our audit testing utilizing the computer-generated data to cause us to doubt its reliability. We believe that the data was sufficient to achieve our audit objectives.

In performing our audit work, we used Excel to judgmentally select samples for testing in order to accomplish our audit objectives. We selected the following cases reviewed from January 1 to August 31, 2015:

- 15 out of 1,005 NARA Stage 1 closed cases;
- 7 out of 134 NARA Stages 2-5 closed cases;
- 15 out of 77 BAAO Stages 1-5 closed cases;
- 10 out of 39 Veterans Passover and Administrative Law Judges closed cases;
- 20 out of 116 CAB reciprocity cases;
- 10 out of 409 CAB scheduled background investigations cases for Personnel Investigations Processing System or Facility Access;
- 27 out of 166 NARA random reviews conducted;
- 18 out of 134 BAAO random reviews conducted; and
- 10 out of 2,776 agency favorable adjudications reviews conducted.

We also judgmentally selected 15 out of 36 training records of Personnel Security Specialists (Adjudicators) to determine if they were trained to perform their duties.

The samples selected during our review were not statistically based. Consequently, the results from our samples were not projected to the various populations.

### III. RESULTS OF THE AUDIT

Our audit showed that the FIS Adjudications Group is following its procedures for adjudicating cases, has adequate oversight controls over their random review process, has controls in place to train their personnel, and is in compliance with the Intelligence Reform and Terrorism Prevention Act of 2004 timeliness standards. Therefore, we did not identify any findings and no corrective action is necessary.

# IV. MAJOR CONTRIBUTORS TO THIS REPORT

## INTERNAL AUDITS GROUP

[REDACTED], Auditor

[REDACTED], Auditor

[REDACTED], Auditor-in-Charge

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[REDACTED], Senior Team Leader

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